

SAMPLE LEASE



WASHINGTON STATE DEPARTMENT OF
Natural Resources
Doug Sutherland - Commissioner of Public Lands

WINERY & VINEYARD LEASE

Lease No.

BY THIS LEASE (hereinafter "Agreement"), the STATE OF WASHINGTON, Department of Natural Resources, (hereinafter "State") leases to **NAME OF SUCCESSFUL BIDDER** (hereinafter "Lessee") the premises in Benton County, Washington, the legal description of which is set forth in Exhibit 1A, upon the terms and conditions and for the consideration enumerated herein. Said premises and rights leased hereby are hereinafter referred to as the "Premises".

SECTION 1 OCCUPANCY

1.01 Lease Term. This Agreement shall commence on January 1, 2007 ("Commencement Date") and expire on December 31, 2062 (Termination Date).

1.02 No Warranty of Quiet Enjoyment. State makes no warranty of quiet enjoyment of the Premises.

1.03 Condition of Premises. Lessee has had an opportunity to inspect Premises and enters into this Agreement solely in reliance on Lessee's own examination and not by reason of any representation by State. Premises are accepted in its present condition "AS IS WHERE IS". No reliance shall be placed on any opinion, material, or information provided by or through State, and Lessee does so at its own risk, cost and expense.

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1.04 Right to Terminate. This lease is conveyed based on the financial gain to the State accruing from the operation of a winery. If Lessee fails to construct a winery according to the plan of development approved by State within _____ years (**Number of Years based on bid proposal**) of the Commencement Date or fails to continue operation of the winery once constructed for 12 consecutive months, State shall have a right to terminate this lease by giving Lessee written notice of State's decision to terminate. The Termination Date shall be set forth in the notice. Lessee shall remain liable for any obligations accruing as of the Termination Date set forth in the notice, including any obligation to restore the Premises as provided in Section 10-Improvements. Lessee shall execute a release of Lessee's interest to the Premises upon request of State.

SECTION 2 USE OF PREMISES

2.01 Permitted Use. For this Agreement, the following uses and no other uses are permitted:

PERMITTED USE	ACRES	AUTHORIZED CROPS or PRODUCTS
Winery	____ Square Foot Winery ____ Square Foot Grounds	Wine
Vineyard		Wine Grapes
Orchard		Apples and/or Cherries
Non-Production		Access Roads & Nonproductive Areas

**PARCEL SIZE IS _____ACRES TOTAL.
BREAKDOWN OF ACREAGE TO BE PROPOSED BY BIDDER.**

In the event the Lessee desires a change in acreage, crops, products, or use, authorization must be obtained in advance and in writing from the State. Approval may be conditioned upon adjustment of the payments identified in Section 3. The Lessee shall put the Premises to full beneficial use in accordance with customary industry standards, the permitted use(s), acres, and crop(s) designated herein, and any plan of development schedules identified herein. Failure to do so will be grounds for default.

2.03 Plan of Development.

1. Winery. The Winery shall be constructed subject to the plan and specifications pursuant to Subsection 10.01 and Exhibit 2A.
2. Vineyard. The following are the minimum acres that must be developed by the dates specified:

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DATE	ACRES	VARIETIES
To be proposed by Bidder	To be proposed by Bidder	To be proposed by Bidder

Optional Development

3. Orchard. The following are the minimum acres that must be developed by the dates specified:

ACRES	VARIETIES	DATE
To be proposed by Bidder	To be proposed by Bidder	To be proposed by Bidder

Any proposed changes in acreage or varieties must be submitted in writing to, and approved by, the State.

2.04 Conservation Plan. Prior to cultivating any previously uncultivated land on the Premises, the Lessee shall agree to and comply with a conservation plan prepared and approved by the Natural Resources Conservation Service (NRCS) before disturbing any vegetation or soil on the Premises. The Lessee shall furnish to the State a copy of the approved conservation plan fifteen (15) days prior to disturbing any vegetation or soil on the Premises.

2.05 Irrigation System Development. The Lessee shall furnish to State an irrigation system plan and design for State's approval. The Lessee shall furnish and install at the Lessee's own expense that portion of the irrigation system agreed to in the State approved irrigation system plan and design. The State will oversee the design, installation and payment for the well pump and panel, the mainline servicing all parcels of the development, and the main discharge components of the irrigation system including valves and flowmeters. The State will not pay for any portion of the irrigation system unless specifically agreed to in writing by the State.

2.06 Plans and Specifications. Other than the well pump and panel, the mainline servicing all parcels of the development, and the main discharge components of the irrigation system, the Lessee shall furnish and install all new or replacement irrigation facilities on the lease premises according to the following criteria:

1. Plans. Plans shall be prepared by the Lessee to show location of the components, size of pumps, motors, pipelines, valves and other controls, including the electrical system and the overall length of each size of pipe. Plans shall be for the final design to irrigate the irrigable land for which water is available. Plans may show staged development to be completed over one or more years. Plans are subject to review and approval by the State.

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2. **Minimum Specifications.** The buried portions of the irrigation system shall have a designed sprinkler application rate of at least eight (8) gallons per minute per acre. Trickle system application rates shall be at least five (5) gallons per minute per acre. All construction must meet the following conditions:
 - a. Materials used shall have a minimum expected life of twenty-five (25) years. The Lessee shall provide such information and data as needed for review of the materials. The Lessee shall install the system in accordance with the manufacturer's recommendations.
 - b. All components of the system shall have a manufacturer's design pressure of at least one hundred twenty-five (125) percent of designed operating pressures.
 - c. The velocity of water in the mainlines or submainlines of the system shall not exceed five (5) feet per second.
 - d. All plans shall include pressure relief valves, air relief valves, drains, thrust blocks and anodes.
3. **Preconstruction Conference.** A preconstruction conference will be held with the State to review the plans and specifications. The Lessee may request alteration or deviation from the above specifications at this conference. Any change in specifications must be authorized in writing by the State before construction begins.

2.07 Operating Schedule. Both parties shall meet prior to starting any development to establish an operating schedule.

2.08 Compliance Specifications. The Lessee shall notify the State fifteen (15) days prior to starting work on the development of the Premises. On all improvements relating to the development of the Premises, State shall make a final inspection of the completed project and, if acceptable, shall issue its written acceptance. If construction is not in accordance with approved plans and specifications, the Lessee shall immediately take such actions as required to correct any deficiency. The State's approval or disapproval of any plans, specifications, improvements or completed projects, shall not obligate or render the State liable in any way.

SECTION 3 PAYMENT

Payments made hereunder will be applied in the following order: (1) interest, (2) rent, (3) leasehold tax, and (4) then to charges.

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3.01 Minimum Cash Rent. There shall be a cash rental payment of \$178.00 per acre beginning on January 1, 2007, subject to Subsection 3.09. Rent shall be paid semi-annually with the first half payment due on April 1, and the second half payment due on October 1.

3.02 Vineyard Rent. The Lessee shall pay to the State, the following annual amounts for any and all acres in vineyard:

An annual cash rental of \$100.00 per acre of vineyard, for calendar years 2007, 2008, and 2009; and then beginning in 2010 an annual cash rental of \$400.00 per acre. All annual payments shall be made in advance, due on January 1, subject to adjustment under Subsection 3.09.

For the purposes of the lease, vineyard acreage shall be defined as the gross acres devoted to vineyard production, including but not limited to vineyard management roads, grape and equipment storage areas, and irrigation, electrical and trellis systems. Non-production shall be defined as those acres devoted to access roads as noted on Exhibit 11A, and any areas considered to be non-production submitted in the plan of development due to soil or topographic features which limit grape production. All non-production acres must be approved by the State.

3.03 Footprint Rent. Once the winery is constructed, Lessee shall pay to the State, in advance, an annual cash rent of \$ 0.50 per square foot of floor space covered by the footprint of the winery measured from the outer edge of the outside walls, including any storage or other buildings associated with the winery and \$0.025 per square foot of area covered by the footprint of other grounds (not including the acreage devoted to production of grapes) associated with the winery, to include parking areas, landscaping, and picnic grounds.

This rent shall be in addition to the Vineyard Rent. This rent shall be prorated for the calendar year (January 1 through December 31) in which construction of the winery is completed and paid annually thereafter, in advance, due no later than January 1, subject to adjustment under Subsection 3.09.

3.04 Production Rent. In addition to the Minimum Cash Rent, Vineyard Rent and Footprint Rent, the Lessee shall pay to the State a minimum annual production rent of \$_____ based upon the production capacity in U.S. wine gallons of _____, **(based upon bid proposal)**. In addition, any production above _____ gallons will be charged at a rate of \$_____ (thirty-five cents (\$0.35) per U.S. gallon minimum bid per Notice of Leasing) as reported to the U.S. Department of Treasury, Bureau of Alcohol, Tobacco and Firearms, Excise Tax Return Form "ATF F 5000.24". This Production Rent shall be paid quarterly in arrears on the fifteenth of the following months: January, April, July, and October, and is subject to adjustment under Subsection 3.09. Each payment shall be submitted with copies of the above-mentioned report sufficient to verify the production for the quarter. Production is defined as all wine produced at the winery including any reported by other entities.

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3.05 Leasehold Tax. Lessee shall pay to State, the leasehold tax as set forth in RCW Chapter 82.29A - Leasehold Excise Tax as may be amended. The tax shall be due and payable at the same time the rental charged herein is due and payable.

3.06 No Counterclaim, Setoff, or Abatement of Rent. Rent and all other sums payable by Lessee hereunder shall be paid without the requirement of prior notice or demand by State, and shall not be subject to any counterclaim, setoff, deduction or defense and without abatement. The obligations and liabilities of Lessee hereunder shall in no way be released, discharged or otherwise affected, except as expressly provided in Subsection 13.06 (Condemnation).

3.07 Interest Charged for Past-Due Rent and Other Sums Owed. Lessee shall pay interest at the rate of one percent (1%) per month (or at such higher rate as may be authorized by statute after the Commencement Date hereof), until paid, on rent or other sums owing under the terms of this Agreement commencing the date such rent or other sum is due and payable. In the event State pays any sum or incurs any expense which Lessee is obligated to satisfy or pay under this Agreement, or which is made on behalf of Lessee, State shall be entitled to receive reimbursement thereof from Lessee upon demand, together with interest thereon from the date of expenditure at the rate stated above.

3.08 Late Charge for Failure to Pay. In the event the Lessee fails to make any payment of rent due hereunder upon the date due, the State shall be entitled to collect from the Lessee a late charge equal to six percent (6%) of the amount of the delinquent payment. Any failure to pay rent or any amount specified in this Section 3, or any other amount to be paid by the Lessee under terms of this Agreement within thirty (30) days of the date due, shall be a material default hereunder by the Lessee and such default shall entitle the State to pursue all remedies specified in this Agreement, including the right to terminate this Agreement, though failure to exercise such right shall not be construed as a waiver of the right and thereafter pursue any remedies available at law or equity, including those contained in Chapter 59.12 RCW.

3.09 Adjustment of Rent. The Minimum Cash Rent, Vineyard Rent, Footprint Rent, and Production Rent shall be adjusted beginning on January 1, 2012, and at intervals of five (5) years thereafter (the "Adjustment Date"). In no event will the adjusted annual rental be less than the previous annual rental. Adjusted rental values established after the designated Adjustment Date shall be due retroactive to such Adjustment Date. The method(s) for such adjustment shall be selected solely by the State, consistent with the directions of Subsections 3.01, 3.02, 3.03, and 3.04, from the following options:

1. Increase of the current annual rent by the percentage increase in the United States Department of Labor, Bureau of Labor Statistics, "All Items" Consumer Price Index for All Urban Consumers ("CPI"), US City Average (1982-84=100), between the date five (5) years previous to the Adjustment Date and the Adjustment Date, i.e., adjusted rental amount equals current annual rent times CPI as of current Adjustment Date divided by CPI as of date five (5) years previous.

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In the event the CPI ceases to be published, the State may substitute such other comparable cost of living index as then may be in publication by a comparable governmental agency.

2. Determination of fair market value of the Premises within six (6) months before or after the Adjustment Date through evaluation of pertinent market evidence by State lease administrator and/or other appropriate State personnel.
3. Determination of fair market value of the Premises within six (6) months before or after the Adjustment Date through formal appraisal by State's appraiser, certified general appraiser under contract with the State, or such other appraiser as may be agreed to by State. Such appraisal must be performed in accordance with the Uniform Standards of Professional Appraisal Practices (USPAP) as promulgated by the Appraisal Institute.

The market value will be determined exclusive of Lessee's improvements and as though ownership were in fee simple, not encumbered by lease.

Under 2. and 3. above, the new annual rental above shall be computed by multiplying the market value of the Premises by the then current Prime Rate as of the Adjustment Date plus 200 basis points (Prime Rate + 2.0%). The term "Prime Rate" shall mean the Prime Rate as published in The Wall Street Journal from time to time (or the average Prime Rate if more than one is published), any change in such Prime Rate to effect a change in the rate charged hereunder on the date of each such change. If The Wall Street Journal ceases to be published or ceases to publish a Prime Rate, then State shall designate another nationally recognized business publication which publishes such a rate or such rates which does, in the reasonable opinion of State, represent the "Prime Rate" as defined herein.

3.10 Failure to Adjust Not Waiver. Failure of State to adjust rent pursuant to Subsection 3.08 above at the end of any five (5) year period shall not be a waiver by State of the right to adjust rent at the end of any subsequent five (5) year period. State shall retain the right, for so long as this Agreement remains in effect, to adjust rent as of the end of any five (5) year period, as though all prior adjustments had been made in accordance with the above provisions.

3.11 Records. The Lessee shall prepare, maintain, and keep records in accordance with acceptable record keeping practices. A clear, complete, detailed record and accounting of business activity that affects payments due the State shall be maintained at a location in Washington, for a period of at least four (4) years following payment of rent. Further, the Lessee shall prepare, maintain, and keep records of management practices conducted on the Premises, including, but not limited to, the use of pesticides, for the term of this Agreement or as required by law or any permit.

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3.12 Right to Examine Books and Records. The acceptance by the State of any payment shall be without prejudice to the State's right to examine the Lessee's books and records to verify the amount due to State. Upon forty-eight (48) hours advance written notice, Lessee shall authorize and permit the State or its agents to examine any and all books, records and files of all kinds for the purpose of determining and enforcing compliance with the provisions of this Agreement. Lessee shall make such books and records available for review at Lessee's offices within the state of Washington, or if Lessee no longer maintains an office within this state, Lessee shall make such books and records available at the DNR region office in Ellensburg. Lessee shall pay any amount between the amounts paid and amounts determined to be due upon inspection of the books (Discrepancy Amount) within thirty days of State mailing an invoice for the Discrepancy Amount.

3.13 Rent Payments. All rent payments shall be sent to the following address for processing: the State's Region office as outlined in Subsection 13.13.

3.14 Rent Security. Prior to or upon execution of this Agreement, Lessee shall furnish State, at the State's request, a good and sufficient corporate surety bond, letter of credit or other security ("Bond") satisfactory to State in the amount of the annual rent due or projected to be due for the rent period, which bond shall secure the full performance by Lessee of its rent obligations for the following year. The Bond shall be in form and issued by a surety company acceptable to State. The Bond shall be adjusted as Lessee progresses through each rent period to assure full payment of Lessee's annual rent obligations under the Agreement. Where the rent is paid in less than annual installments, the Bond shall still cover an estimated amount of rent that would be due during an entire year. A new or modified Bond shall be delivered to State not less than thirty (30) days following the effective date of any increase in the amount of rent. Upon any default by Lessee of its obligations hereunder, any or all of the Bond may be appropriated by State to offset the liability of Lessee to State, but such Bond and State's appropriation thereof shall in no way limit the liability or obligations of Lessee or the rights or remedies of State. Lessee's failure to have a bond in force at all times during the term of this Agreement in the full amount required shall constitute a material breach of this Agreement.

SECTION 4 RESERVATIONS

4.01 Compliance. The State shall have access to the Premises at all reasonable times to determine and secure compliance with this Agreement. Failure to inspect or enforce compliance shall not be construed as a waiver of the State's right to declare a breach, nor relieve Lessee of any liability to the State for any breach of the terms, conditions, or requirements of this Agreement.

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4.02 Compatible Uses. State reserves for itself, its successors and assigns, the right at all times for any purpose to cross and re-cross the Premises at any place or grade, to grant easements/licenses over or leases to the Premises, to sell, or otherwise dispose of minerals, coal, oil, timber, gas, or other valuable materials from the Premises insofar as the State's activities on the Premises and any grant of rights the State makes to any person or entity shall not unreasonably interfere with the activities permitted hereunder.

SECTION 5 SPECIAL RESTRICTONS

5.01 Conformance with Laws. Lessee shall cause all work on the Premises and all business conducted thereon during the term to be performed in accordance with all applicable laws and all directions and regulations of all governmental agencies and the representatives of such agencies having jurisdiction. In no event shall Lessee undertake or suffer any activity to be conducted upon the Premises which constitutes a nuisance or which is a threat to the health or welfare of the general public.

5.02 Irrigation Water. The Lessee shall comply with the Contract for Delivery of Water for Irrigation, Frost Control and Orchard Cooling entered into on September 2, 1998 with the South Slope Irrigation District, and any amendments thereto, which by this reference is made a part hereof. The Lessee shall put the irrigation water to full beneficial use. The Lessee shall utilize the water on the lease premises, and shall do so in a manner which shall preserve and protect the State's rights to use of the water.

Further, the Lessee shall comply with the provisions of Ground Water Certificate No. G4-28427C, and Surface Water Certificates Nos. S4-26501C and S4-28284C, attached as Exhibit(s) 6C, 6D, and 6F, respectively, and by this reference is made a part hereof. The Lessee shall manage and utilize the water to protect the State's rights for use of the water.

The State does not guarantee or warrant the quality or quantity of any water or water supply. The State shall not be liable for any water related problems such as, but not limited to, lack, contamination, failure, excess, shortage, interruption or stoppage of water.

5.03 Winery Water. Lessee shall be solely responsible for the cost of obtaining water for use associated with the operation of the winery.

5.04 Other Restrictions on Use.

1. Lessee shall remove no State-owned valuable material, without prior written consent of the State. Prior to State's authorization for removal of valuable material, the Lessee must pay to the State the fair market value of the valuable material, as determined by the State.

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2. Lessee shall take all reasonable precautions to protect the land and improvements on the Premises from fire, make every reasonable effort to report and suppress such fires as may affect the Premises, and shall be subject to applicable fire laws affecting the Premises.
3. Lessee shall prevent accumulation of equipment parts or "bone yards" on the Premises.
4. This Agreement does not convey rights to media uses, communication sites, or any use on the Premises other than those expressly stated in this Agreement.

5.05 Irrigation System. The Lessee has inspected the State-owned irrigation system on the lease premises and accepts the same in its present condition. The State does not warrant the system's fitness for intended use, its capacity, or the quality or quantity of water which it may produce. The Lessee shall, at its sole expense, maintain, winterize and repair the State-owned irrigation system in a prudent manner to keep it operational.

5.06 Maintenance Records. The Lessee shall keep at a reasonable location, clear, complete and detailed records of all maintenance, repairs, and replacement of parts of every kind and character, affecting the State-owned irrigation system.

5.07 Formal Cooperative Agreement. Within 60 days of signing the lease a Formal Cooperative Agreement will be entered into by all Lessees, "Users Group", holding DNR leases located within the Paterson Orchard Property described in Exhibit 5A, which by this reference is made a part hereof. The purpose of the Agreement is to establish the guidelines agreed upon by the Users Group to design, construct, maintain and pay for common access roads, as well as to operate, maintain and pay for the common irrigation system and power consumption. The State shall have the right to substitute a different Lessee as a party to the Agreement upon the substitute Lessee assuming the responsibilities of a former Lessee. The Formal Cooperative Agreement shall be subordinate to the terms of this lease agreement.

SECTION 6 UTILITIES, TAXES, LIENS

6.01 Utilities and Maintenance. During the term of this Agreement, Lessee shall pay all expenses incurred by Lessee in the use, enjoyment, and operation of the Premises, including, but not limited to, utility charges and all costs of maintaining and repairing the Premises and all improvements thereon whether now existing or hereafter installed. Lessee shall indemnify and hold the State harmless against any loss, liability, or expense resulting from any failure of Lessee to pay all such charges when due.

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6.02 Taxes and Assessments.

1. Lessee shall pay during the term of this Agreement all taxes and other governmental charges of any kind applicable or attributable to the installation of Lessee owned improvements on the Premises, Lessee's leasehold interest therein, and Lessee's use and enjoyment thereof.
2. Lessee shall pay its prorated share of all assessments that are legally required to be paid now or may be charged during the lease term to the Premises or Lessee owned improvements thereon. Lessee shall not cause or suffer the imposition of any assessment upon the Premises without the prior written consent of State. In the event any new assessment is proposed which affects the Premises, Lessee shall immediately notify State of such proposal after Lessee has knowledge or receives notice thereof. Any assessment upon the Premises shall be made in compliance with all applicable statutes, including, but not limited to, Chapter 79.44 RCW.

6.03 Lessee Liens. Lessee shall not suffer or permit any lien to be filed against the State's interest in the Premises, or improvements thereon by reason of work, labor, or services performed thereon or materials supplied to, by or through the Lessee. If any such lien is filed, Lessee shall cause the same to be discharged of record within thirty (30) days after the date of filing or creation of such lien unless other arrangements are authorized in writing by the State in advance. Lessee shall indemnify the State for any costs, damages or expenses (including attorneys' fees and courts' costs) incurred as a result of such liens or in obtaining their discharge whether such costs, damages or expenses were incurred prior or subsequent to termination or cancellation of this Agreement.

SECTION 7 LESSEES INDEMNITY; INSURANCE REQUIREMENTS

7.01 Indemnity. Lessee releases, indemnifies and shall defend (with counsel acceptable to State) State, its employees, officers, and agents from and against any and all claims arising out of the use, occupation or control of the Premises by Lessee, its agents, and employees. A "claim" as used in this subsection means any claim of any nature whatsoever for penalties, financial loss, damages (including but not limited to bodily injury, sickness, disease or death, or injury to or destruction of property, land and other natural resources including the loss of use thereof), costs or expenses (including but not limited to attorney's fees), whether or not resulting in a suit or action or reduced to judgment. This release and the obligation to indemnify shall not be eliminated or reduced by the concurrent negligence of the State, its officials, employees, or agents, except as provided in this subsection. To the extent that RCW 4.24.115 applies, Lessee shall not be required to indemnify State from State's sole or concurrent negligence. Lessee waives its immunity under Title 51 to the extent it is required to indemnify the State herein.

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7.02 Insurance Requirements.

Lessee shall, at all times during the term of this contract at its cost and expense, buy and maintain insurance of the types and amounts listed below. Failure to buy and maintain the required insurance may result in the termination of the contract at State's option. If Lessee fails to procure and maintain the insurance described below, Lessee shall be in material breach of this contract. In case of breach, State, at its election, shall have the right to terminate the contract or to procure and maintain, at Lessee's expense, substitute insurance with right of offset against any money due Lessee.

All insurance and surety bonds should be issued by companies admitted to do business within the State of Washington and have a rating of A-, Class VII or better in the most recently published edition of Best's Reports. Any exception shall be reviewed and approved by the department's risk manager before the contract is accepted. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with Chapter 48.15 RCW and 284-15 WAC.

State of Washington, Department of Natural Resources shall be provided written notice before cancellation or non-renewal of any insurance referred to therein, in accord with the following specifications:

1. Insurers subject to Chapter 48.18 RCW (admitted and regulated by the Insurance Commissioner): The insurer shall give the State 45 days advance notice of cancellation or non-renewal. If cancellation is due to non-payment of premium, the State shall be given 10 days advance notice of cancellation.
2. Insurers subject to Chapter 48.15 RCW (surplus lines): The State shall be given 20 days advance notice of cancellation. If cancellation is due to non-payment of premium, the State shall be given 10 days advance notice of cancellation.

Before starting work, Lessee shall furnish State of Washington, Department of Natural Resources with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements specified in the contract and, if requested, copies of policies to State. The certificate of insurance shall reference the State of Washington, Department of Natural Resources, and the lease number.

Lessee shall include all subcontractors as insured under all required insurance policies, or shall furnish separate certificates of insurance and endorsements for each subcontractor. Subcontractor(s) must comply fully with all insurance requirements stated herein. Failure of subcontractor(s) to comply with insurance requirements does not limit Lessee's liability or responsibility.

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The State of Washington, Department of Natural Resources, its elected and appointed officials, agents and employees shall be named as an additional insured on all general liability, excess, umbrella, and property insurance policies.

All insurance provided in compliance with this contract shall be primary as to any other insurance or self-insurance programs afforded to or maintained by State.

Lessee waives all rights against State for recovery of damages to the extent these damages are covered by general liability or umbrella insurance maintained pursuant to this contract. Lessee covenants that no insurer shall hold any right of subrogation against the State, except in the case (and only in the case) that such waiver of subrogation invalidates coverage under such policy. Where required by the policy, Lessee shall obtain an endorsement to evidence this waiver of subrogation by the insurance company against the State and the State's officials, employees, and agents.

If Lessee is self-insured, evidence of its status as a self-insured entity shall be provided to State. If requested by State, Lessee must describe its financial condition and the self-insured funding mechanism.

By requiring insurance herein, State does not represent that coverage and limits will be adequate to protect Lessee, and such coverage and limits shall not limit Lessee's liability under the indemnities and reimbursements granted to State in this contract.

The limits of insurance, which may be increased by State of Washington, Department of Natural Resources, as deemed necessary, shall not be less than as follows:

Commercial General Liability (CGL) Insurance. The Lessee shall maintain general liability (CGL) insurance covering claims for bodily injury, personal injury, or property damage arising on the property and/or out of Lessee's operations and, if necessary, commercial umbrella insurance with a limit of not less than \$1,000,000 per each occurrence. If such CGL insurance contains aggregate limits, the General Aggregate limit shall be at least twice the "each occurrence" limit. CGL insurance shall have products-completed operations aggregate limit of at least two times the "each occurrence" limit.

CGL insurance shall be written on Insurance Services Office (ISO) occurrence form CG 00 01 (or a substitute form providing equivalent coverage). All insurance shall cover liability arising out of premises, operations, independent contractors, products completed operations, personal injury and advertising injury, and liability assumed under an insured contract (including the tort liability of another party assumed in a business contract), and contain separation of insured (cross liability) condition.

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Employer's Liability ("Stop Gap") Insurance. Lessee shall buy employers liability insurance, and, if necessary, commercial umbrella liability insurance with limits not less than \$1,000,000 each accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease.

Workers' Compensation Coverage. Lessee shall comply with all State of Washington workers' compensation statutes and regulations. Workers' compensation coverage shall be provided for all employees of Lessee and employees of any subcontractor or sub-subcontractor. Coverage shall include bodily injury (including death) by accident or disease, which exists out of or in connection with the performance of this contract. Except as prohibited by law, Lessee waives all rights of subrogation against State for recovery of damages to the extent they are covered by workers' compensation, employer's liability, commercial general liability, or commercial umbrella liability insurance.

If Lessee, subcontractor or sub-subcontractor fails to comply with all State of Washington workers' compensation statutes and regulations and State incurs fines or is required by law to provide benefits to or obtain coverage for such employees, Lessee shall indemnify State. Indemnity shall include all fines, payment of benefits to Lessee or subcontractor employees, or their heirs or legal representatives, and the cost of effecting coverage on behalf of such employees.

Business Auto Policy (BAP). Lessee shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a limit not less than \$1,000,000 per accident. Such insurance shall cover liability arising out of "Any Auto." Business auto coverage shall be written on ISO form CA 00 01, or substitute liability form providing equivalent coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage and cover a "covered pollution cost or expense" as provided in the 1990 or later editions of CA 00 01. Lessee waives all rights against State for the recovery of damages to the extent they are covered by business auto liability or commercial umbrella liability insurance.

Property Insurance. Lessee shall buy and maintain property insurance covering all real property and fixtures, equipment, and lessee improvements and betterments. Such insurance shall be written on an all risks basis and, at a minimum, cover the perils insured under ISO special causes of loss form CP 10 30, and cover the full replacement cost of the property insured. Such insurance may have commercially reasonable deductibles. Any coinsurance requirement in the policy shall be waived. State shall be included as an insured and a loss payee under the property insurance policy. Lessee shall buy and maintain boiler and machinery insurance required by contract documents or by law, covering real property, fixtures, equipment and tenants improvements or betterments from loss or damage caused by the explosion of steam boilers or pipes.

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In the event of any loss, damage or casualty which is covered by one or more of the types of insurance described above, the proceeds of such insurance shall be held in trust as provided under Subsection 10.09.

Builders Risk Insurance. The Lessee shall buy and maintain in force builders risk insurance on the entire work during the period construction is in progress and until completion of the project and acceptance by State. Such insurance shall be written on a completed form and in an amount equal to the value of the completed building, subject to subsequent modifications to the sum. The insurance shall be written on a replacement cost basis. The insurance shall name as insureds State, Lessee, and all subcontractors and sub-subcontractors in the work.

Insurance described above shall be written to cover all risks of physical loss except those specifically excluded in the policy, including loss or damage caused by collapse. Insurance described above shall cover the entire work at the Premises, including reasonable compensation for architect's services and expenses made necessary by an insured loss. Insured property shall include portions of the work located away from the site but intended for use at the site, and shall also cover portions of the work in transit. The policy shall include as insured property scaffolding, falsework, and temporary buildings located at the site. The policy shall cover the cost of removing debris, including demolition as made legally necessary by the operation of any law, ordinance or regulation.

Any deductible applicable to the insurance bought in compliance with the policy described above shall be identified in the contract documents and the responsibility for paying the part of any loss not covered because of application of deductible(s) shall be the responsibility of the Lessee. If any part of any loss is not covered because of the application of a deductible amount not identified in the contract documents, Lessee will pay such loss. Lessee shall buy and maintain boiler and machinery insurance required by contract documents or by law, covering insured objects during installation and until final acceptance by State. If testing is being performed, such insurance shall cover such operations. This insurance shall name as insureds State, Lessee, and all subcontractors and sub-subcontractors in the work.

Insurance for State-Owned Equipment and Structures. The Lessee shall buy and maintain property insurance covering all real property and fixtures, equipment, and the Lessee's improvements and betterments. Such insurance shall be written on an all risks basis and, at a minimum, cover the perils insured under ISO special causes of loss form CP 10 30, and cover the full replacement cost of the property insured. Such insurance may have commercially reasonable deductions.

Any coinsurance requirement in the policy shall be waived.

The State shall be included as an additional insured and loss payee under the property insurance policy.

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The Lessee shall buy and maintain boiler and machinery insurance required by contract documents or by law, covering real property, fixtures, equipment and the Lessee's improvements or betterments from loss or damage caused by the explosion of steam boilers or pipes.

In the event of any loss, damage or casualty which is covered by one or more of the types of insurance described herein, the parties to this lease shall proceed cooperatively to settle the loss and collect the proceeds of such insurance, which shall be held in trust by the State, including interest earned by the State on such proceeds, for use according to the terms of this lease.

The parties agree that such insurance proceeds shall be used to repair and restore damaged improvements to their former condition and usefulness or replacement of the same with equivalent or more suitable improvements.

When sufficient funds are available, using insurance proceeds described above, the parties shall continue with reasonable diligence to prepare plans and specifications for, and thereafter carry out, all necessary work to:

1. Repair and restore damaged building(s) and/or improvements to their former condition, or
2. Replace said building(s) and/or improvements with a new building(s) and/or improvements on the Premises of a quality and usefulness at least equivalent to, or more suitable than, damaged building(s) and/or improvements.

SECTION 8 WEEDS, HARMFUL SUBSTANCES

8.01 Weed Control. Lessee shall control all weeds on the Premises. Lessee shall be responsible for, or shall immediately reimburse State for, any weed control cost incurred, as a result of Lessee's failure to control weeds on said Premises.

Lessee shall prevent noxious weed infestations by applying management practices which discourage their establishment or spread. The Lessee shall detect and control the invasion of new noxious weeds. Noxious weeds will be controlled using appropriate mechanical, biological and chemical treatments that meet the requirements of Washington State and Federal law.

Lessee shall use Integrated Pest Management (IPM) to control weeds. This means using a coordinated decision-making and action process that considers all weed management methods and strategies, and applies them in an environmentally and economically sound manner to meet weed management objectives. The elements of integrated pest management for weeds include:

1. Preventing weed problems;
2. Monitoring for the presence of weed species;

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3. Establishing the density of the weed population (which may be zero) that can be tolerated;
4. Treating weed problems to reduce their populations below the tolerable threshold, using strategies that may include biological, cultural, mechanical, and chemical control methods, and that consider human health, ecological impact, feasibility and cost-effectiveness; and
5. Evaluating the effects and efficacy of weed control treatments.

8.02 Hazardous, Toxic, or Harmful Substances.

1. Deleterious Material. Lessee shall not make, or suffer to be made, any filling in of the Premises or any deposit of rock, earth, ballast, refuse, garbage, waste matter, chemical, biological or other wastes, hydrocarbons, any other pollutants, or other matter within or upon the Premises, except as approved in writing by the State, or unless permitted by Subsection 2.01 (Permitted Use). If the Lessee fails to remove all nonapproved fill material, refuse, garbage, wastes or any other of the above materials from the Premises, the Lessee agrees that the State may, but is not obligated to, remove such materials and charge the Lessee for the cost of removal and disposal.
2. Hazardous, Toxic, or Harmful Substances.
 - a. Lessee shall not keep on or about the Premises, any substances now or hereinafter designated as or containing components now or hereinafter designated as hazardous, toxic, dangerous, or harmful, and/or which are subject to regulation as hazardous, toxic, dangerous, or harmful by any federal, state or local law, regulation, statute or ordinance (hereinafter collectively referred to as "Hazardous Substances") unless such are necessary to carry out Lessee's permitted use under Subsection 2.01 (Permitted Use) and unless Lessee fully complies with all federal, state and local laws, regulations, statutes, and ordinances, now in existence or as subsequently enacted or amended. Lessee shall:
 - (1) Immediately notify the State of: all spills or releases of any Hazardous Substance affecting the Premises; all failures to comply with any federal, state, or local law, regulation or ordinance, as now enacted or as subsequently enacted or amended; all inspections of the Premises by, or any correspondence, orders, citations, or notifications from any regulatory entity concerning Hazardous Substances affecting the Premises; and all regulatory

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orders or fines or all response or interim cleanup actions taken by or proposed to be taken by any government entity or private party concerning the Premises; and

- (2) On request, provide copies to the State of any and all correspondence, pleadings, and/or reports received by or required of Lessee or issued or written by Lessee or on Lessee's behalf with respect to the use, presence, transportation or generation of Hazardous Substances related to the Premises.

- b. Lessee shall be fully and completely liable to the State, and shall indemnify, defend, and save harmless State and its agencies, employees, officers, and agents with respect to any and all damages, costs, fees (including attorneys' fees and costs), penalties (civil and criminal), and cleanup costs assessed against or imposed as a result of Lessee's use, disposal, transportation, generation and/or sale of Hazardous Substances or that of Lessee's employees, agents, assigns, sublessees, contractors, subcontractors, licensees or invitees, and for any breach of this subsection.

SECTION 9 ASSIGNMENTS

9.01 Lessee Assignment. Lessee shall not hypothecate, mortgage, assign, sublease, transfer, or otherwise alienate this Agreement ("Assignment"), or any interest therein, without the prior written consent of State, which consent shall not be unreasonably withheld. In granting any such consent under this clause State shall be entitled to consider, among other items, the proposed assignee's, sublessee's or transferee's financial condition, business reputation, business, and such other factors as may reasonably bear upon the suitability of the assignee, sublessee, or transferee as lessee of the Premises. If Lessee is a corporation, partnership, or other association, (1) the transfer of more than fifty percent (50%) of the ownership interest in such entity, or (2) the sale of all or substantially all of the assets of Lessee shall be deemed to constitute an "assignment" of this Agreement which requires consent of State. The consent of State to any one assignment shall not constitute a waiver of State's right to consent to subsequent assignments, nor shall consent of State to any one assignment relieve any party previously liable as Lessee from any obligations under this Agreement, who shall remain joint and severally liable as primary obligor and not as surety. The acceptance by State of the payment of rent following an assignment shall not constitute consent to any assignment and State's consent shall be evidenced only in writing. The State may require reimbursement for any additional administrative costs resulting from the assignment.

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9.02 Landlord Assignment. If State sells or otherwise transfers the Premises, or if State assigns its interest in this Lease, such purchaser, transferee or assignee thereof shall be deemed to have assumed State's obligations hereunder which arise on or after the date of sale or transfer, and State shall thereupon be relieved of all liabilities hereunder accruing from and after the date of such transfer or assignment, but this Lease shall otherwise remain in full force and effect.

SECTION 10 IMPROVEMENTS

10.01 Authorized Improvements. No improvement shall be placed on the Premises without the prior written consent of the State.

1. Winery. Lessee is authorized to construct or renovate within the time schedule specified in Exhibit 2A, at Lessee's sole cost and expense, certain improvements described on Exhibit 2A (Winery) incorporated herein by this reference. At any time and from time to time during the Term, Lessee may make, at its sole cost and expense, changes and alterations to the Winery or any part thereof so long as such changes and alterations are not substantial and do not change the character of the Winery. Changes and alterations to the Winery or any series or group of changes or alterations involving a cost in excess of Fifty Thousand Dollars (\$50,000) within any twelve (12) month period may be made only with the prior written consent of State and shall be subject to the following:
 - a. The plans or specifications for the construction of the improvements listed on Exhibit 2A, and for such changes or alterations, including amendments of such plans or specifications, shall be submitted to State for its approval. Within twenty (20) days after receipt of said plans or specifications, State shall, in writing, either approve or disapprove the plans or specifications or inform Lessee of the additional time required to complete the review thereof. If State fails to disapprove or inform the Lessee in writing of the need for additional time within the twenty (20) day period, State shall be deemed to have approved the plans or specifications as submitted.
 - b. No such change or alteration shall be made except under the supervision of an architect or engineer selected by Lessee and approved in writing by State.
 - c. No change or alteration shall be undertaken until Lessee shall have procured and paid for all required permits, licenses and authorizations and shall have furnished State evidence thereof. All changes and alterations shall be made in a good and workmanlike manner and in compliance with all applicable building and zoning codes and other legal requirements.

SAMPLE LEASE

Upon completion of construction, Lessee shall furnish State with a certificate of substantial completion executed by the architect for the Project, and a complete set of "as built" plans for the Project. Lessee shall thereafter furnish State with copies of the updated plans showing all changes and modifications thereto. Lessee shall also furnish to State copies of Certificates of Occupancy or other similar documents issued to certify completion of construction in compliance with applicable requirements.

2. Irrigation and Crop Improvements. See Section 2 and Exhibit 10A.

10.02 Ownership of Improvements. During the Term of this Agreement, the improvements constructed by Lessee, including without limitation all additions, alterations and improvements thereto or replacements thereof and all appurtenant fixtures, machinery and equipment installed therein, shall be the property of Lessee. At early termination, or expiration of this Agreement, all existing improvements and all additions, alterations and improvements thereto or replacements thereof and all appurtenant fixtures, machinery and equipment (except as provided under Subsection 10.10) installed therein shall become the property of the State unless State elects in writing to have Lessee remove the same at the Lessee's sole expense. Except for and subject to rights of Leasehold Mortgagees as provided under Section 14, those improvements of which State assumes ownership shall transfer to the State free of cost and free of subsequent liability to the Lessee. Throughout the term of this Agreement, Lessee shall not permit any claim of lien made by any mechanic, materialman, laborer, or other similar liens to stand against the Premises for work or labor done, services performed, or materials used or furnished to be used in or about the Premises for or in connection with any construction, improvements or maintenance or repair thereon made or permitted to be made by Lessee, its agents, or sublessees. Any liens, encumbrances or claims of third parties with respect to any of the foregoing, shall be expressly subordinate and subject to the rights of State under this Agreement.

10.03 Financial Assurance. Prior to commencing construction of authorized improvements, Lessee is required to provide to State one or more surety bond(s) or letters of credit (Surety) acceptable to State in an amount sufficient to assure completion of all improvements. The amount of the Surety will be based on the costs of full execution of these plans, and may be adjusted once every five (5) years to ensure adequate funding is available to complete the activities covered by the plans. The Surety will be deposited with State to remain in effect until the appropriate phase of development is complete and all associated costs have been paid in full, free from all liens and claims of contractors, subcontractors, mechanics, laborers, and materialmen. Any additional construction after completion of the improvements shall not commence until a new Surety is in place. State may accept as a substitute for construction bonding proof that a sufficient surety has been provided to a construction lender.

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10.04 Third Party Claims. Lessee shall indemnify, defend and hold harmless State and the Premises from and against all claims and liabilities arising by virtue of or relating to construction of the authorized improvements or repairs made at any time to the authorized improvements (including repairs). Lessee shall regularly and timely pay any and all amounts properly payable to third parties with respect to such work and will maintain its books and records as provided in Subsection 3.10, with respect to all aspects of such work and materials therefore, and will make them available for inspection by State or its representatives as requested.

10.05 Permits; Compliance with Codes. Lessee shall cause all work on the Premises during the Term to be performed in accordance with all applicable laws and all directions and regulations of all governmental agencies and the representatives of such agencies having jurisdiction. Lessee is responsible, at Lessee's sole cost and expense, to cause the authorized improvements and the Premises to comply with all applicable governmental laws, statutes, rules, regulations and/or ordinances that apply to the Premises during the Agreement Term, whether now in effect, or hereinafter adopted or enacted.

10.06 State's Repairs. State shall not be required or obligated to make any changes, alterations, additions, improvements, or repairs in, on, or about the Premises, or any part thereof.

10.07 Lessee's Repairs, Alteration, and Maintenance. Lessee shall, at its sole cost and expense, keep and maintain the Premises and all improvements thereon and all facilities appurtenant thereto (regardless of ownership) in good order and repair and safe condition for the safe conduct of any activities or enterprises conducted on the Premises pursuant to this Agreement, and keep and maintain the whole of the Premises, including all improvements in a clean, sanitary and attractive condition.

10.08 Condition at End of Lease.

1. Winery. Upon vacating the Premises on the termination date, Lessee shall leave the Premises and all improvements thereon in the state of repair and cleanliness required to be maintained by Lessee during the Term of this Lease and shall peaceably surrender the same to State. At the option of State, Lessee shall at its sole expense remove all improvements constructed by Lessee upon the Premises and return the Premises to grade level free of all debris.
2. Vineyard Rehabilitation. Prior to expiration or termination of this lease, at the State's request and sole option, the Lessee, at its sole cost, shall rehabilitate the vineyard as follows:

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- a. The Lessee shall till that portion of the vineyard planted to grapes by use of a rotovator or comparable machinery, at a minimum depth of eighteen (18) inches to remove all, stumps, and roots. The Lessee shall dispose of all stumps and roots.
- b. The Lessee shall remove all above-ground irrigation systems, trellis systems and other above ground fixtures.

10.09 Effect of Damage or Destruction.

1. In the event of any damage to or destruction of the Premises or any improvements thereon from any causes whatever, Lessee shall promptly give written notice thereof to State. Lessee shall promptly repair or restore the Premises as nearly as possible to its condition immediately prior to such damage or destruction unless State and Lessee mutually agree in writing that such repair and restoration is not feasible, in which event this Lease shall thereupon terminate. Lessee's duty to repair any damage or destruction of the Premises or any improvements thereon shall not be conditioned upon the availability of any insurance proceeds from Lessee's insurance to Lessee from which the cost of repairs may be paid. Unless this Lease is so terminated by mutual agreement, there shall be no abatement or reduction in Rent during such repair and restoration. Any insurance proceeds from Lessee's insurance payable by reason of such damage or destruction shall be made available by the Trustee of Insurance (as hereafter defined) to pay the cost of such reconstruction; provided, however, in the event Lessee is in default under the terms of this Lease at the time such damage or destruction occurs, State may elect to terminate this Lease, and State shall thereafter have the right to retain all insurance proceeds from Lessee's insurance payable as a result of such damage or destruction. Funds held by the Trustee of Insurance in excess of the cost of such reconstruction shall be paid to State and Lessee pro-rated based upon the unexpired term of this Lease, with Lessee receiving the fraction thereof which is equal to the then remaining term divided by the original term of this Lease, and State receiving the remainder; provided State shall have a lien on Lessee's share of such proceeds from Lessee's insurance to the extent Lessee has failed to pay any monies to State under the terms of this Lease.
2. In the event such damage or destruction occurs within the last ten (10) years of the term of this Lease, and if such damage or destruction cannot be substantially repaired within one hundred eighty (180) days, either State or Lessee may elect by written notice to the other, within ninety (90) days after the date of such damage or destruction, to terminate this Lease. If neither State nor Lessee elect to terminate this Lease, Lessee shall repair or restore the Property as nearly as possible to its condition immediately prior to such damage or destruction or

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construct thereon such other improvements as may be approved by State. In the event State or Lessee elects to terminate this Lease, the Term of this Lease shall terminate one hundred twenty (120) days after the date of such damage or destruction. Any insurance proceeds from Lessee's insurance payable shall be allocated between State and Lessee pro-rata based upon the unexpired term of this Lease as specified in (a) above and, subject to State's claim against Lessee's share of such proceeds from Lessee's insurance in an amount equal to sums due from Lessee hereunder. In the event Lessee elects to restore the Premises, and State does not terminate this Lease, any insurance proceeds from Lessee's insurance payable by reason of such damage or destruction shall be made available to Lessee to pay the costs of such reconstruction and any funds remaining shall be allocated between State and Lessee as stated in item 1 above.

3. All proceeds of Lessee's Physical Property Damage insurance shall be received by the Trustee of Insurance, shall be held in trust, and dispersed as provided in this Subsection 10.09. The Trustee of Insurance shall be an institutional investor doing business in the State of Washington with authority to hold escrow funds and acceptable to State and Lessee. The Trustee shall not be a Leasehold Mortgagee. The Trustee shall retain in trust all policies of insurance or certificates thereof delivered to it and shall not permit the withdrawal, termination or discontinuance of any such policy without State's consent, and, upon request, shall exhibit such policies or certificates to State or Lessee or any authorized representative of State or Lessee. The Trustee of Insurance shall apply the proceeds of the insurance collected to the cost of such work upon certificate of progress and/or completion in form satisfactory to said Trustee by the licensed architect or engineer in charge of the work. Any amounts payable to Lessee or any affiliate of Lessee for work or services performed or materials provided as part of any such repair, replacement, restoration or rebuilding shall not exceed competitive rates for such services or materials and Lessee shall upon request of State, make available to State and its representatives at State's offices all books and records of Lessee relating to such work, services and materials. All fees and charges of such Trustee of Insurance shall be paid by Lessee. The Trustee of Insurance shall invest any insurance proceeds received as directed in writing jointly by State and Lessee. The determinations required under this Subsection 10.09 shall be made by an independent qualified insurance surveyor selected by the parties, whose decision shall not be subject to arbitration. If the parties cannot agree on the insurance surveyor within thirty (30) days after the date of such damage or destruction, then the same shall be appointed by the Presiding Judge of the Superior Court of Thurston County, Washington upon the application of either party.

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10.10 Fixtures and Equipment. In order to operate the winery and vineyard, Lessee may place or install such trade fixtures and equipment as Lessee shall deem desirable for the conduct of business therein. Personal property, trade fixtures and equipment used in the conduct of business by Lessee (as distinguished from fixtures and equipment used in connection with the operation and maintenance of the authorized improvements) shall not become part of the real property, even if nailed, screwed or otherwise fastened to the improvements or buildings of the Project, but shall retain their status as personal property. Such personal property may be removed by Lessee at any time and so long as Lessee is not in default under this Lease and so long as any damage to the property of State occasioned by such removal is thereupon repaired. All other fixtures, equipment and improvements (including all fixtures and equipment necessary for its operation and maintenance) constructed or installed upon the Premises shall be deemed to become part of the real property and, upon the Termination Date, shall become the sole and exclusive property of State, free of any and all claims of Lessee or any person or entity claiming by or through the Lessee. In the event Lessee does not remove the personal property and trade fixtures which they are permitted by this subsection 10.10 to remove within forty-five (45) days following the Termination Date, State may at its election (i) require Lessee to remove such property at Lessee's sole expense, and Lessee shall be liable for any damage to the property of State caused by such removal, (ii) treat said personal property and trade fixtures as abandoned, retaining said properties as part of the Premises, or (iii) have the personal property and trade fixtures removed and stored at Lessee's expense. Lessee shall promptly reimburse State for any damage caused to the Premises by the removal of personal property and trade fixtures, whether removal is by Lessee or State.

SECTION 11 ROADS

11.01 Access across Premises. Lessee is authorized, subject to any rights previously granted to third parties, to use existing roads on the Premises as needed to enjoy the permitted uses, the location of which are illustrated on the map(s) attached as Exhibit 11A. Lessee may, with written approval of State, construct additional roads.

11.02 Access to Premises.

Adjacent State Land. Access to Premises includes a non-exclusive right to use an existing or to be constructed road over the location shown on the map(s) attached as Exhibit 11A or the purpose of exercising the rights granted herein.

11.03 Road Repair. Lessee shall repair or cause to be repaired at its sole cost and expense that damage to said road(s) occasioned by it which is in excess of that which it would cause through normal and prudent usage of said road(s). Within fifteen (15) days of the damage, Lessee shall meet with State and provide a plan of operation for the repairs.

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11.04 Road Maintenance. Road maintenance is defined as work normally necessary to preserve and keep the roads in their present condition or as hereafter improved. At a minimum, roads shall be maintained to meet forest practice standards set forth in WAC 222-24-050 as now written or hereafter amended. Unless contrary to the terms of an express easement authorizing access, the cost of performance of road maintenance and resurfacing shall be allocated on the basis of respective uses of said road. During periods when a road, or portions thereof, is used solely by Lessee, Lessee shall solely maintain that portion of said road to the standards set forth above; provided State reserves the right to make reasonable allocations concerning priority of use and maintenance of said roads by it and others. Where there is joint use of a road, or portion thereof, Lessee shall perform or cause to be performed, or contribute or cause to be contributed, that share of maintenance and resurfacing occasioned by such use as hereinafter provided.

During periods when more than one party is using the same road or any portion thereof, the parties hereto shall meet and establish necessary maintenance provisions. Such provisions shall include, but shall not be limited to:

1. The appointment of a maintainer, which may be one of the parties hereto or any third party, who will perform or cause to be performed at a reasonable and agreed upon rate the maintenance and resurfacing of the road or the portion thereof being used; and
2. A method of payment by which each party using said road or a portion thereof, shall pay its pro rata share of the cost incurred by said maintainer in maintaining or resurfacing said road or portion thereof.

11.05 Improvements. Lessee shall construct no improvements to roads where access has been provided by State without the prior written consent of State, which shall not be unreasonably withheld. Unless State agrees to share in the cost of the improvement in writing, the improvements shall be at the sole cost of the improver.

11.06 Insurance. The provisions under Section 7 – Lessees' Indemnity; Insurance Requirements shall apply to Lessee's use of roads authorized herein.

SECTION 12 DEFAULT AND REMEDIES

12.01 Default. In the event of any material breach of any provision of this Agreement by Lessee, State shall be entitled to cancel this Agreement and seek any other remedies set forth in this Agreement or otherwise available at law or equity. State shall not cancel this Agreement if the breach pertains to a matter other than the payment of any monies due under this agreement, and Lessee shall promptly commence to cure the breach and shall cure the breach within forty-five (45) days. If such breach is non-monetary in nature, and, as determined by State, is not reasonably susceptible of being cured in said forty-five (45) days (provided that the lack of

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funds, or the failure or refusal to spend funds, shall not be an excuse for a failure to cure), Lessee shall commence to cure such breach within said period and diligently pursue such action with continuity to completion. If Lessee fails to cure a material breach, all Lessee owned improvements shall at the option of State, be removed by Lessee, be removed by State at the cost to Lessee, or become the property of State.

12.02 Reentry. Except for the cure period as provided in 12.01 for non-monetary breaches, in the event of material breach by Lessee, State shall have the right, with or without canceling the Lease, to reenter the Premises and remove all persons and property from the Premises and take whatever actions may be necessary or advisable to relet, protect or preserve the Premises. Any property so removed may be stored in a public warehouse or other suitable place or otherwise disposed of in State's discretion at the expense and for the account of Lessee. State shall not be responsible for any damages or losses suffered by Lessee as a result of such reentry, removal, storage or other disposition, and no such action shall be construed as an election to terminate this Lease unless a written notice of termination is given to Lessee.

12.03 Termination of Agreements. Whether or not State elects to terminate this lease on account of any breach by Lessee and subject to any non-disturbance and attornment agreements, if any, State shall have a right to terminate any and all subleases, licenses, concessions or other arrangement for possession affecting Premises. Alternatively, State, in its sole discretion, may succeed to Lessee's interest in such sublease, license, concession or arrangement, and Lessee shall have no further right to or interest in the rent or other consideration receivable thereunder.

12.04 Survival. All obligations of Lessee to be performed prior to the expiration or earlier termination shall not cease upon the termination or expiration of this Agreement and shall continue as obligations until fully performed. All clauses of this Agreement that require performance beyond the termination or expiration date shall survive the termination or expiration date of this Agreement. Upon expiration or earlier termination of this Agreement, the rights of Lessee and of all persons, firms, corporations, and entities claiming under Lessee in and to the Premises and all improvements hereon, unless specified otherwise in this Agreement, shall cease.

12.05 State's Right to Cure Defaults. If Lessee fails to perform and is in default of any undertaking or promise contained herein, the State shall have the option, but is not obligated, to make such performance after giving ten (10) days written notice to the Lessee. The State's costs and expense to correct Lessee's failure to perform shall be reimbursed by Lessee and shall be immediately due and payable, together with interest accruing from the date such cost or expense is incurred.

12.06 Remedies Cumulative. The specified remedies to which the State may resort under the terms of this Agreement are cumulative and are not intended to be exclusive of any other remedies or means of redress to which State may lawfully be entitled in case of any breach or threatened breach by Lessee of any provision of this Agreement.

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12.07 Nonwaiver. Waiver by the State of strict performance of any provision of this Agreement shall not be a waiver of nor prejudice the State's right to require strict performance of the same provision in the future or of any other provision. The acceptance of performance, rent, or any other sum owing, by State following a breach by the Lessee of any provision of this Agreement shall not constitute a waiver of any right of the State with respect to such breach and State shall be deemed to have waived any right hereunder only if State shall expressly do so in writing.

12.08 Force Majeure. The Lessee's failure to comply with any of the obligations under this Agreement shall be excused only if due to causes beyond Lessee's control and without the fault or negligence of the Lessee, including acts of God, acts of the public enemy, acts of any government, fires, floods, epidemics and strikes.

12.09 Insolvency of Lessee. If the Lessee becomes insolvent, a receiver is appointed, or Lessee's interest is transferred by operation of law by reason of insolvency, the State may terminate this Agreement at its option. Insolvency as used herein will mean the inability of the Lessee to meet its monetary obligations under this Agreement as they come due.

SECTION 13 GENERAL PROVISIONS

13.01 Governing Law. This Agreement shall be construed, interpreted and enforced pursuant to the laws of the State of Washington. Venue shall be in Thurston County. The terms of this Agreement shall be given their ordinary meaning and shall not be presumed construed in favor of or against either party hereto.

13.02 No Partnership. The State is not a partner nor a joint venturer with the Lessee in connection with the activities conducted and business carried on under this Agreement, and the State shall have no obligation with respect to the Lessee's debts or other liabilities.

13.03 Lessee's Authority. Persons executing this Agreement on behalf of Lessee represent that they are authorized to do so and warrant that this Agreement is a legal, valid, and binding obligation on behalf of Lessee, and is enforceable in accordance with its terms.

13.04 State's Authority. This Agreement is entered into by State pursuant to the authority granted by statute and the Constitution of the State of Washington. The terms and conditions hereof are subject to such statutory and constitutional provisions as may be now in effect and such provisions which do not impair the contractual rights of Lessee under this Agreement which may lawfully be enacted subsequent to the date of this Agreement.

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13.05 Preservation of Markers. Lessee shall not destroy any land survey corner monuments and reference points (including but not limited to corner markers, witness objects, or line markers) without prior written approval from the State, which shall not be unreasonably withheld. Monuments or reference points that must necessarily be disturbed or destroyed during construction or operations must be adequately referenced and replaced, at the Lessee's cost, under the direction of a State of Washington Professional Land Surveyor, in accordance with all applicable laws of the State of Washington, including but not limited to RCW 58.24, and all relevant Department of Natural Resources regulations.

13.06 Condemnation. If all of the Premises are taken by any lawful authority under the power of eminent domain for a period which will end on or extend beyond the expiration of the term of this Agreement, this Agreement terminates as of the date the condemner takes possession. If part of the Premises is taken by any lawful authority under the power of eminent domain for a period which will end on or extend beyond the expiration of the term of this Agreement, the State or Lessee may choose to terminate this Agreement as of the date the condemner takes possession. If either the State or Lessee elects to terminate this Agreement, the rents or other charges to be paid by Lessee will be apportioned by the State and paid by the Lessee to the date of taking. If neither the State nor Lessee elects to terminate this Agreement, the rent will be reduced in the same proportion that the value of the portions of the site to be taken bears to the value of the entire site as of the date condemner takes possession.

If the taking is for a period which will end on or extend beyond the expiration of the term of this Agreement, Lessee will have no claim or interest in or to any award of damages for the whole or partial taking of the site, except that the Lessee will be entitled to an amount equal to the fair market value of any improvements as of the date of taking (except trade fixtures) considered by this Agreement to be owned by the Lessee taken by the condemner.

If temporary use of all or part of the site is taken by any lawful authority under the power of eminent domain for a period ending before the expiration of the term, this Agreement will continue in full force and Lessee will be entitled to receive any award from the condemner for the use of all or part of the Premises.

The State and Lessee will give to the other immediate written notice of any proceedings with respect to a condemnation and of any intentions of any authority to exercise the power of eminent domain.

13.07 Interpretation and Numbering. Section and Subsection numbers, headings, or titles are for convenience only and are not to be construed to limit or to extend the meaning of any part of this Agreement.

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13.08 Time of Essence. Time is expressly declared to be of the essence of this Agreement and each and every covenant of Lessee and the State hereunder.

13.09 Amendments. Any amendments, revisions, supplements, or additions to this Agreement or the attached exhibits shall be made in writing executed by the parties hereto, and neither State nor Lessee shall be bound by verbal or implied agreements. Such changes may be made by re-execution of the signature page and the deletion and addition of the appropriate new effective pages or exhibits governing the change, if any.

13.10 Entire Agreement. This written Agreement or its successor or replacement and the terms of the notice of auction contain the entire agreement of the parties hereto with respect to the matters covered hereby, and no other agreement, statement or promise made by any party hereto, or to any employee, officer or agent of any party hereto, which is not contained herein, shall be binding or valid.

13.11 Invalidity. If any term or provision of this Agreement or the application thereof to any person or circumstance shall to any extent prove to be invalid, unenforceable, void, or illegal, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall be not affected thereby, and each term and provision of this Agreement shall be valid and be enforced as written to the fullest extent permitted by law.

13.12 Attorney Fees. If either party brings suit or submits to an alternative dispute process to interpret or enforce any provision of the agreement, the prevailing party shall be entitled to reasonable attorney fees, paralegal fees, accountant and other expert witness fees and all other fees, costs and expenses actually incurred in connection therewith, including those incurred on appeal, in addition to all other amounts provided by law, regardless of whether the matter proceeds to judgment or is resolved by the defaulting party curing the default.

13.13 Notices and Submittals. Any notice or submittal given under this Agreement shall be deemed as received when delivered by hand or five (5) days after deposit in the United States mail with first-class postage affixed, addressed as noted. Changes of address may be given in accordance with this section. Any notice or submittal given under this Agreement shall be:

To the State:

Where Agreement provisions require submittal to State office:

Washington State Department of Natural Resources
Product Sales and Leasing Division
P.O. Box 47061
Olympia, WA 98504-7061

SAMPLE LEASE

Where Agreement provisions require submittal to the State at its Region office:

Washington State Department of Natural Resources
Southeast Region
713 Bowers Road
Ellensburg, WA 98926-9301

To the Lessee: at the address affixed with signature or Lessee's last known address.

13.14 Letter of Credit. In order for a letter of credit to be used as security under the terms of this Lease, Lessee shall comply with the following provisions:

1. Letter of Credit. On or before the execution of this Lease by Lessee, Lessee shall deliver to State a clean, irrevocable and unconditional standby letter of credit in a form acceptable to State in its sole discretion (“Letter of Credit”) issued by a bank approved by State in its sole judgment (hereinafter referred to as the “Bank”) in favor of State, in the amount required under the appropriate section of this Lease as security for Lessee’s performance of the terms of the Lease. The Letter of Credit shall remain in force during the entire term of the Lease. The Letter of Credit shall have a term of at least one year and by its own terms be renewed automatically for successive one (1) year periods unless the Bank provides no less than thirty (30) days written notice to State that such Letter of Credit shall not be renewed, in which event State shall have the right to draw down the entire amount of the Letter of Credit. Nothing in this Lease or the Letter of Credit shall confer on Lessee any property rights or interests in the Letter of Credit any draws thereunder.
2. Draws. State shall have the unconditional right to draw against the Letter of Credit in full or in part upon the occurrence of any of the following:
 - a. Lessee’s failure, not less than 30 days prior to the stated expiration date of the Letter of Credit then in effect, to cause an extension, renewal or replacement of the Letter of Credit meeting all the requirements set forth above.
 - b. Lessee’s failure to make any payment of rent or other monetary obligation within 10 days of the date the amount is due.
 - c. Lessee’s failure to perform any non-monetary obligation hereunder that is not cured within the time frame provided in Subsection 12.01.

SAMPLE LEASE

State will hold the draw proceeds in its own name and for its own account, without liability for interest, as security for the performance of Lessee under the Lease. State may apply the draw proceeds to any past due rent or monetary obligation or toward the cure of any non-monetary default. Draw proceeds will not be considered an advance payment of rent or a measure of State's damages resulting from a breach. Any delays in drawing upon the Letter of Credit or applying the draw proceeds will not constitute a waiver of State's rights to do so. In the event of a draw, Lessee shall, within ten days of notice of a draw, cause the Letter of Credit to be replenished to the full amount. Recourse by State to the Letter of Credit shall not affect any remedies provided in this Lease or which are available to State in law or equity.

3. Transferability. If State transfers its interest in the Premises, or any portion thereof, State may transfer the Letter of Credit and any draw proceeds then held by State to the transferee. Thereafter, Lessee agrees to look solely to the new landlord for the return of the cash or Letter of Credit or any sums collected thereunder and hereby releases State from any liability associated with such transferred funds.
4. Return. Upon expiration of the Lease, should Lessee have fully performed all terms of the Lease, the Letter of Credit and any draws thereon, except as may have been applied by State, in the possession of State shall be returned to the Bank.

13.15 Exhibits. This agreement is subject to the terms and conditions of exhibits referenced herein, which are attached hereto and by this reference made a part hereof.

Exhibits: 1A, 2A, 5A, 10A, 11A, and 11B.

SECTION 14 LEASEHOLD MORTGAGES

14.01 Definitions.

1. The term "Institutional Investor" as used in this Section shall refer to any reputable and solvent (1) savings bank, (2) savings and loan association, (3) commercial bank, (4) trust company, (5) credit union, (6) insurance company, (7) college, (8) university, (9) real estate investment trust or (10) pension fund. The term "Institutional Investor" shall also include other reputable and solvent lenders of substance which perform functions similar to any of the foregoing, and which have assets in excess of Fifty Million Dollars (\$50,000,000) at the time the Leasehold Mortgage loan is made.

SAMPLE LEASE

2. The term "Leasehold Mortgage" as used in this Section shall include a mortgage, a deed of trust, a deed to secure debt, or other security instrument by which Lessee's leasehold estate is mortgaged, conveyed, assigned, or otherwise transferred, to secure a debt or other obligation which is held by an Institutional Investor.
3. The term "Leasehold Mortgagee" as used in this Section shall refer to the Institutional Investor which is the holder of a Leasehold Mortgage in respect to which the notice provided for by Subsection 14.03 below, has been given and received and as to which the provisions of this Section are applicable.

14.02 Leasehold Mortgage Authorized. State consents to Lessee receiving a Purchase Money Leasehold Mortgage upon a sale and assignment of the leasehold estate created by this Agreement, subject to compliance by Lessee with this Section, if Lessee has obtained the prior written consent by State to the sale and assignment of the leasehold estate pursuant to the provisions of Section 9. State consents to Lessee mortgaging or otherwise encumbering Lessee's leasehold estate to an Institutional Investor (as hereinafter defined) under one or more Leasehold Mortgages, subject to compliance by Lessee with this Section. This Agreement may be assigned as security for such Purchase Money Leasehold Mortgage(s) or Institutional Investor Mortgage(s). Except as specifically authorized in this Section with respect to Purchase Money Leasehold Mortgage(s) and Institutional Investor Mortgage(s), Lessee shall not have the right to assign, hypothecate, mortgage or otherwise pledge the leasehold estate created hereby without State's express prior written consent, which consent shall not be unreasonably withheld, as provided in Section 9.

14.03 Notice to State.

1. a. If upon sale and assignment of the leasehold estate, Lessee shall, on one or more occasions, take back a Purchase Money Leasehold Mortgage for a term not beyond the Termination Date, Lessee shall provide State notice of such Purchase Money Leasehold Mortgage together with a true copy thereof. Any Purchase Money Leasehold Mortgage shall contain a statement which disclaims any interest or lien against State's fee interest in the Premises and which provides that State shall have no liability whatsoever in connection with said Mortgage or the instruments and obligations secured thereby.
- b. Upon receipt of such notice, State shall promptly acknowledge by an instrument in recordable form that State consents to such Purchase Money Leasehold Mortgage for so long as Lessee holds such instrument, or shall promptly notify Lessee that State does not consent to such Mortgage as not conforming to the requirements of Subsection 14.03 1. a. above, and shall specify the specific basis of such nonconformity.

SAMPLE LEASE

2. a. If Lessee shall mortgage Lessee's leasehold estate to an Institutional Investor for a term not beyond the Termination Date, and if the holder of such Leasehold Mortgage shall provide State with notice of such Leasehold Mortgage together with a true copy of such Leasehold Mortgage and the name and address of the Mortgagee, State and Lessee agree that, following receipt of such notice by State, the provisions of this Section shall apply in respect to each such Leasehold Mortgage held by an Institutional Investor. In addition to the foregoing requirements, an Institutional Investor Leasehold Mortgage shall contain a statement which disclaims any interest or lien against State's fee interest in the Premises and which provides that State shall have no liability whatsoever in connection with said Mortgage or the instruments and obligations secured thereby.
 - b. In the event of any assignment of a Leasehold Mortgage or in the event of a change of address of a Leasehold Mortgagee or of an assignee of such Leasehold Mortgage, notice of the new name and address shall be provided to State; provided, however, any such assignee shall be an Institutional Investor as defined herein.
 3. Promptly upon receipt of a communication purporting to constitute the notice provided for by Subsection 14.03 2. a. above, State shall acknowledge by an instrument in recordable form receipt of such communication as constituting the notice provided by Subsection 14.03 2. a. above or, in the alternative, notify Lessee and the Leasehold Mortgagee of the rejection of such communication as not conforming with the provisions of Subsection 14.03 2. a. above, and specify the specific basis of such nonconformity.
 4. After State has received the notice provided for by Subsection 14.03 1. a. or Subsection 14.03 2. a. above, Lessee shall with reasonable promptness provide State with copies of the note or other obligation secured by such Purchase Money Leasehold Mortgage or Leasehold Mortgage and of any other documents pertinent to the Purchase Money Leasehold Mortgage or Leasehold Mortgage as specified by State. Lessee shall thereafter also provide State from time to time with a copy of each amendment or other modification or supplement to such instruments. All recorded documents shall be accompanied by the appropriate certification of the appropriate official of the recording office as to their authenticity as true and correct copies of official records. All non-recorded documents shall be accompanied by a certification by Lessee that such documents are true and correct copies of the originals. From time to time upon being requested to do so by State, Lessee shall also notify State of the date and place of recording and other pertinent recording data with respect to such instruments as have been recorded.

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14.04 Consent of Leasehold Mortgagee Required. No cancellation, surrender or modification of this Agreement shall be effective as to any Leasehold Mortgagee unless consented to in writing by such Leasehold Mortgagee; provided, however, that nothing in this subsection shall limit or derogate from State's rights to terminate this Agreement in accordance with the provisions of this Section.

14.05 Default Notice. State, upon providing Lessee any notice of: (a) default under this Agreement, or (b) an intention to terminate this Agreement, or (c) demand to remedy a claimed default, shall contemporaneously provide a copy of such notice to every Leasehold Mortgagee. From and after such notice has been given to a Leasehold Mortgagee, such Leasehold Mortgagee shall have the same period, after the giving of such notice upon it, for remedying any default or causing the same to be remedied, as is given Lessee after the giving of such notice to Lessee, plus in each instance, the additional periods of time specified in Subsections 14.06 and 14.07 below, to remedy, commence remedying or cause to be remedied the defaults specified in any such notice. State shall accept such performance by or at the instigation of such Leasehold Mortgagee as if the same had been done by Lessee. Lessee authorizes each Leasehold Mortgagee to take any such action at such Leasehold Mortgagee's option and does hereby authorize entry upon the Premises by the Leasehold Mortgagee for such purpose.

14.06 Notice to Leasehold Mortgagee.

1. Anything contained in this Agreement to the contrary notwithstanding, if any default shall occur which entitles State to terminate this Agreement, State shall have no right to terminate this Agreement unless State shall notify by a Termination Notice every Leasehold Mortgagee of which State has been notified pursuant to Subsection 14.03 2. a. above, of Lessor's intent to so terminate at least thirty (30) days in advance of the proposed effective date of such termination, if such default is capable of being cured by the payment of money, and at least forty-five (45) days in advance of the proposed effective date of such termination, if such default is not capable of being cured by the payment of money. The provisions of Subsection 14.07 below shall apply if, during such thirty (30) or forty-five (45) day Termination Notice Period, any Leasehold Mortgagee shall:
 - a. Notify State of such Leasehold Mortgagee's desire to nullify such notice; and
 - b. Pay or cause to be paid the Rent, additional rent, if any, and other monetary obligations then due and in arrears as specified in the Termination Notice to such Leasehold Mortgagee and which may become due during such thirty (30) or forty-five (45) day period; and

SAMPLE LEASE

- c. Comply with all non-monetary requirements of this Agreement then in default and, as determined by State, reasonably susceptible of being complied with by such Leasehold Mortgagee (provided that the lack of funds, or the failure or refusal to spend funds, shall not be an excuse for a failure to cure), and proceed to comply with reasonable diligence and continuity with such requirements not reasonably susceptible of being complied with by such Leasehold Mortgagee within the notice period; provided, however, that such Leasehold Mortgagee shall not be required during such forty-five (45) day period to cure or commence to cure any default consisting of Lessee's failure to satisfy and discharge any lien, charge or encumbrance against Lessee's interest in this Lease or the Premises junior in priority to the lien of the Leasehold Mortgage held by such Leasehold Mortgagee.
2. Any notice to be given by State to a Leasehold Mortgagee pursuant to any provision of this Section shall be deemed properly addressed if sent to the Leasehold Mortgagee who served the notice referred to in Subsection 14.03 2. a. above, unless notified of a change of Leasehold Mortgage ownership has been given to State pursuant to Subsection 14.03 2. b. above. Such notices, demands and requests shall be given in the manner described in Section 13 and shall in all respects be governed by the provisions of that Section.

14.07 Procedure on Default.

1. If State shall elect to terminate this Agreement by reason of any default of Lessee, and a Leasehold Mortgagee shall have proceeded in the manner provided for by Subsection 14.06, the specified date for the termination of this Agreement as fixed by State in its Termination Notice shall be extended for a period of six (6) months, provided that such Leasehold Mortgagee shall during such six (6) month period:
 - a. Pay or cause to be paid (a) the Rent, additional rent, if any, and other monetary obligations of Lessee under this Agreement as the same become due, and continue to perform all of Lessee's other obligations under this Agreement, excepting obligations of Lessee to satisfy or otherwise discharge any lien, charge or encumbrance against Lessee's interest in this Agreement or the Premises junior in priority to the lien of the Leasehold Mortgage held by such Leasehold Mortgagee, and (b) past non-monetary obligations then in default and not reasonably susceptible of being cured by such Leasehold Mortgagee (provided that the lack of funds, or the failure or refusal to spend funds, shall not be an excuse for a failure to cure); and

SAMPLE LEASE

- b. If not enjoined or stayed, take steps to acquire or sell Lessee's interest in this Agreement by foreclosure of the Leasehold Mortgage or other appropriate means and prosecute the same to completion with reasonable diligence and continuity. If such Leasehold Mortgagee is enjoined or stayed from taking such steps, the Leasehold Mortgagee shall use its best efforts to seek relief from such injunction or stay.
2. If at the end of such six (6) month period such Leasehold Mortgagee is complying with Subsection 14.07 1., this Agreement shall not then terminate, and the time for completion by such Leasehold Mortgagee of such proceedings shall continue so long as such Leasehold Mortgagee continues to comply with the provisions of Subsection 14.07 1 and, is enjoined or stayed and thereafter for so long as such Leasehold Mortgagee proceeds to complete steps to acquire or sell Lessee's interest in this Agreement by foreclosure of the Leasehold Mortgage or by other appropriate means with reasonable diligence and continuity. Nothing in this Subsection 14.07, however, shall be construed to extend this Agreement beyond the original term, nor to require a Leasehold Mortgagee to continue such foreclosure proceedings after the default shall be cured and the Leasehold Mortgagee shall discontinue such foreclosing proceedings, this Agreement shall continue in full force and effect as if Lessee had not defaulted under this Agreement.
3. If a Leasehold Mortgagee is complying with Subsection 14.07 1. above, upon (1) the acquisition of Lessee's estate herein by such Leasehold Mortgagee or any other purchaser at a foreclosure sale or otherwise, and (2) the discharge of any lien, charge or encumbrance against the Lessee's interest in this Agreement or the Premises which is junior in priority to the lien of the Leasehold Mortgage held by such Leasehold Mortgagee and which the Lessee is obligated to satisfy and discharge by reason of the terms of this Agreement, this Agreement shall continue in full force and effect as if Lessee had not defaulted under this Agreement; provided, however, that such Leasehold Mortgagee or its designee or any other such party acquiring the Lessee's leasehold estate created hereby shall agree in writing to assume all obligations of the Lessee hereunder, subject to the provisions of this Section.
4. For the purposes of this Section, the making of a Leasehold Mortgage shall not be deemed to constitute a complete assignment or transfer of this Agreement or of the leasehold estate hereby created, nor shall any Leasehold Mortgagee, as such, be deemed to be an assignee or transferee of this Agreement or of the leasehold estate hereby created. The Leasehold Mortgagee, prior to foreclosure of the Leasehold Mortgage or other entry into possession of the leasehold estate, shall not be obligated to assume the performance of any of the terms, covenants or conditions on the part of the Lessee to be performed hereunder. The purchaser

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(including any Leasehold Mortgagee) at any sale of this Agreement and of the leasehold estate hereby created in any proceedings for the foreclosure of any Leasehold Mortgage, or the assignee or transferee in lieu of the foreclosure of any Leasehold Mortgage shall be deemed to be an assignee or transferee within the meaning of this Section and shall be deemed to have agreed to perform all of the terms, covenants and conditions on the part of Lessee to be performed hereunder from and after the date of such purchase and assignment.

5. Any Leasehold Mortgagee of the leasehold estate of Lessee pursuant to foreclosure, assignment in lieu of foreclosure or other proceedings may, upon acquiring Lessee's leasehold estate, without further consent of State, sell and assign the leasehold estate on such terms and to such persons and organizations as are acceptable to such Mortgagee; provided that such assignee has delivered to State its written agreement to be bound by all of the provisions of this Agreement and the assignee has previously been approved in writing by State, which approval shall not be unreasonably withheld. A transfer that is made in compliance with the terms of this Section shall be deemed to be a permitted sale, transfer or assignment.
6. Lessee shall not transfer, sell or assign any redemption rights from any foreclosure sale to any person which is not approved by State in accordance with the provisions of Section 9.

14.08 New Agreement. The provision of this subsection shall apply in the event of the termination of this Agreement after default by Lessee resulting from failure of a trustee in bankruptcy to assume the executory portion of the term of this Agreement. If a Leasehold Mortgagee shall have waived in writing its rights under Subsections 14.06 and 14.07 above within thirty (30) days after such Leasehold Mortgagee's receipt of notice required by Subsection 14.06 above, State shall provide each Leasehold Mortgagee with written notice that this Agreement has been terminated ("Notice of Termination"), together with a statement of all sums which would at that time be due under this Agreement for such termination, and of all other defaults, if any, then known to State. State agrees to enter into a new lease ("New Agreement") of the Premises with such Leasehold Mortgagee for the remainder of the term of this Agreement, effective as of the date of termination of this Agreement, at the Rent and additional rent, if any, and upon the terms, covenants and conditions (including all escalations of Rent, but excluding requirements which are not applicable or which have already been fulfilled) of this Agreement, provided:

1. Such Leasehold Mortgagee shall make written request upon State for such New Agreement within sixty (60) days after the date such Leasehold Mortgagee receives State's Notice of Termination of this Agreement given pursuant to this subsection.

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2. Such Leasehold Mortgagee shall pay or cause to be paid to State at the time of the execution and delivery of such New Agreement any and all sums which would at the time of execution and delivery thereof be due pursuant to this Agreement but for such termination and, in addition thereto, all reasonable expenses which State shall have incurred by reason of such termination and the execution and delivery of the New Agreement and which have not otherwise been received by State from Lessee or other party in interest under Lessee. Upon execution of such New Agreement, State shall allow to the Lessee named therein as an offset against the sums otherwise due under this subsection or under the New Agreement, an amount equal to the net income derived by State from the Premises during the period from the date of termination of this Agreement to the date of the beginning of the agreement term of such New Agreement. In the event of a controversy as to the amount to be paid to State pursuant to this subsection, the payment obligation shall be satisfied if State shall be paid the amount not in controversy, and the Leasehold Mortgagee or its designee shall agree to pay any additional sum ultimately determined to be payable plus interest as allowed by law, and such obligation shall be adequately secured.
3. Such Leasehold Mortgagee or its designee shall agree to remedy any of Lessee's defaults of which said Leasehold Mortgagee was notified by State's Notice of Termination and which, as determined by State, are reasonably susceptible of being so cured by Leasehold Mortgagee or its designee (provided that the lack of funds, or the failure or the refusal to spend funds, shall not be an excuse for a failure to cure).

14.09 New Agreement Priorities. If more than one Leasehold Mortgagee shall request a New Agreement pursuant to Subsection 14.08, State shall enter into such New Agreement with the Leasehold Mortgagee whose mortgage is prior in lien, or with the designee of such Leasehold Mortgagee. State, without liability to Lessee or any Leasehold Mortgagee with an adverse claim, may rely upon a mortgagee's title insurance policy or preliminary commitment therefore, issued by a responsible title insurance company doing business within the State of Washington, as the basis for determining the appropriate Leasehold Mortgagee who is entitled to such New Agreement.

14.10 Leasehold Mortgagee Need Not Cure Specified Default. Nothing herein contained shall require any Leasehold Mortgagee or its designee as a condition to its exercise of right hereunder to cure any default of Lessee determined by State not to reasonably be susceptible of being cured by such Leasehold Mortgagee or its designee (provided that the lack of funds, or the failure or the refusal to spend funds, shall not be an excuse for a failure to cure), including but not limited to the default referred to in Section 12, in order to comply with the provisions of Subsections 14.06 or 14.07 , or as a condition of entering into a New Agreement provided for by Subsection 14.08.

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14.11 Eminent Domain. Lessee's share, if any, as provided by Section 13, of the proceeds arising from an exercise of the power of Eminent Domain shall be disposed of as provided for by any Leasehold Mortgage.

14.12 Casualty Loss. A standard mortgagee clause naming each Leasehold Mortgagee may be added to any and all insurance policies required to be carried by Lessee hereunder on condition that the insurance proceeds are to be applied in the manner specified in this Agreement, and the Leasehold Mortgage shall so provide; except that the Leasehold Mortgagee may provide a manner for the disposition of such proceeds, if any, otherwise payable directly to Lessee (but not such proceeds, if any, payable jointly to State and Lessee or payable to the Trustee of Insurance as provided in Section 7.

14.13 Arbitration/Legal Proceedings. State shall give each Leasehold Mortgagee prompt notice of any arbitration or legal proceedings between State and Lessee involving obligations under this Agreement. Each Leasehold Mortgagee shall have the right to intervene in any such proceedings and be made a party to such proceedings, and the parties hereto do consent to such intervention. In the event a Leasehold Mortgagee commences any judicial or non-judicial action to foreclose its Leasehold Mortgage or otherwise realize upon its security granted therein, written notice of such proceedings shall be provided to State at the same time notice thereof is given Lessee.

14.14 No Merger. So long as any Leasehold Mortgage is in existence, unless all Leasehold Mortgagees shall otherwise expressly consent in writing, the fee title to the Premises and the leasehold estate of Lessee therein created by this Agreement shall not merge but shall remain separate and distinct, notwithstanding the acquisition of said fee title and said leasehold estate by State or by Lessee or by a third party, by purchase or otherwise. The foregoing shall not apply in the event of termination of this Agreement after default by Lessee; provided that no Leasehold Mortgagee shall have requested and been granted a New Agreement pursuant to the provisions of Subsection 14.08.

14.15 Estoppel Certificate. State shall, without charge, any time and from time to time hereafter, but not more frequently than twice in any one-year period (or more frequently if such request is made in connection with any sale or mortgaging of Lessee's leasehold interest or permitted subletting by Lessee), within ten (10) days after written request of Lessee to do so, certify by written instrument duly executed and acknowledged to any Leasehold Mortgagee or purchaser, or proposed Leasehold Mortgagee or propose purchaser, or any other person, firm or corporation specified in such request: (a) as to whether this Agreement has been supplemented or amended, and if so, the substance and manner of such supplement or amendment; (b) as to whether this Agreement remains in full force and effect; (c) as to the existence of any default hereunder; and (d) as to the commencement and expiration dates of the Term of this Agreement.

Any Leasehold Mortgagee and any other holder of any indebtedness secured by Lessee's leasehold estate shall provide State, upon State's written request, a statement as to (i) the current amount secured by the Leasehold Mortgage held by said Leasehold Mortgagee, (ii) whether any

SAMPLE LEASE

default exists under said Leasehold Mortgage, or whether any event has occurred which, with notice or lapse of time, or both, would constitute a default), and (iii) whether there exist any offsets, claims or disputes with respect to said Leasehold Mortgage and the instruments secured thereby.

14.16 Notices. Notices from State to the Leasehold Mortgagee shall be mailed to the address furnished State pursuant to Subsection 14.03 and, those from the Leasehold Mortgagee to State shall be mailed to the address designated pursuant to the provisions of Section 13. Such notices, demands and requests shall be given in the manner described in Section 13 and, shall in all respects be governed by the provisions of that section.

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14.17 Erroneous Payments. No payment made to State by a Leasehold Mortgagee shall constitute agreement that such payment was, in fact, due under the terms of this Agreement; and a Leasehold Mortgagee having made any payment to State pursuant to State's wrongful, improper or mistaken notice or demand shall be entitled to the return of any such payment or portion thereof provided the Leasehold Mortgagee shall have made demand therefore not later than one year after the date of its payment.

NAME OF SUCCESSFUL BIDDER

UBI No. _____

Dated: _____, 20____.

Signature

MAILING ADDRESS

CITY, ZIP

Phone: _____

STATE OF WASHINGTON

DEPARTMENT OF NATURAL RESOURCES

Dated: _____, 20____.

DOUG SUTHERLAND

Commissioner of Public Lands

Approved as to form this

7th day of July, 2005

Jim Schwartz, Assistant Attorney General

SAMPLE LEASE

NOTARIAL CERTIFICATE ACKNOWLEDGMENT IN A REPRESENTATIVE CAPACITY

STATE OF _____)
) ss.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____
_____ [name(s)] (**is / are**) the person(s) who
appeared before me, and said person(s) acknowledged that (**he / she / they**) signed this
instrument, on oath stated that (**he / she / they**) (**was / were**) authorized to execute the
instrument, and acknowledged it as the _____ [office(s) or
title(s)] of _____ (business name of the Lessee)
to be the free and voluntary act of such party(**ies**) for the uses and purposes mentioned in the
instrument.

DATED: _____

(Seal or Stamp)

NOTARY PUBLIC in and for the
State of _____
My appointment
expires _____

SAMPLE LEASE

NOTARIAL CERTIFICATE
ACKNOWLEDGMENT IN A REPRESENTATIVE CAPACITY

STATE OF WASHINGTON)
)ss
County of _____)

On this _____ day of _____, 20____, personally appeared before me Doug Sutherland, to me known to be the Commissioner of Public Lands of the Department of Natural Resources, State of Washington, who executed the within and foregoing instrument on behalf of the State of Washington, and acknowledged said instrument to be the free and voluntary act and deed of the State of Washington for the uses and purposes therein mentioned, and on oath stated that [he/she] was authorized to execute said instrument and that the seal affixed is the official seal of the Commissioner of Public Lands for the State of Washington.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.

DATED: _____

(Seal or Stamp)

NOTARY PUBLIC in and for the
State of _____
My appointment
Expires _____

SAMPLE LEASE

EXHIBIT 1A **Legal Description of Premises & Encumbrances**

As Proposed by Bidder based upon the Parcel(s) Bid

.

SAMPLE LEASE

EXHIBIT 2A Winery Specifications

Winery: Winery Building. A single or multi-level building sufficient in size between _____square feet and _____square feet to process and produce _____(stated by bidder) cases of high quality wine. The winery should include areas for barrel aging and storage, all bonded areas including finished goods inventory, wine grape pressing areas, fermentation area (stainless steel tank area), HVAC area, offices area and wine tasting room(s).

The building will be concrete/steel stucco finished “tip-up” or wood/steel (steel studs) construction with wood siding finish typically with common specifications normally used in winery settings. The building will be served with handicap access and provisions. The roof may be wood shingle or ceramic tile material.

Lessee shall submit a site plan for approval. The site plan should include the parking area, landscape and patio areas and winery building relationships. The building will be designed for either single tenant or for multiple users. Sublease for multiple users must be approved on an on-going basis.

The building will be designed and constructed in compliance with Benton County and Washington State building codes and building requirements.

The Lessee shall be required to submit detailed engineering and/or architectural plan(s) and drawings(s) 180 days prior to the date of construction for approval by the State. At that time the State may require financial assurances outlined under subsection 10.03.

The building will be completed no later than January 1, 20____.

EXHIBIT 5A
Paterson Orchard Legal Description

PARCEL A:

That portion of Section 4, Township 5 North, Range 26 East, of the Willamette Meridian, in Benton County, Washington, described as follows:

Beginning at the Southwest corner of the North half of the Southwest quarter; thence East along the South line of said North half of the Southwest quarter for 2,640 feet more or less to the Southeast corner of said North half of the Southwest quarter; thence North parallel with the West line of said Section 4, for 2,640 feet; thence West at right angles to the West line of said Section 4, for 2,340 feet; thence North for 1,320 feet, more or less to a point 300 feet West of the Northwest corner and on the North line of said Section 4; thence West along the North line of said Section 4, for 300 feet, more or less, to the Northwest corner of said Section 4; thence South along the West line of said Section 4, for 3,960 feet more or less, to the Southwest corner of the North half of the Southwest quarter and the True Point of Beginning, EXCEPT a portion conveyed to the United States of America by Deed recorded under Auditor's File No. 564450, AND EXCEPT, State Highway.

TOGETHER WITH an easement from U & I Group, Inc., described as follows:

A pipeline easement situated in Section 8, Township 5 North, Range 26 East, W.M., Benton County, Washington, being 20 feet in width, with 10 feet lying on each side of the following described line:

Commencing at the North quarter corner of Section 8; thence North 86°11'20" East along the North line of said Section a distance of 681.03 feet; thence South 00°24'26" East a distance of 220 feet, more or less, to the Southerly right-of-way of State Highway No. 14, the True Point of Beginning; thence continuing South 00°24'26" East a distance of 980 feet, more or less, to Government Take Line of Tract 1227 and the terminus of this description.

Assessor's Parcel No. 1-0456-200-0002-001.

PARCEL B:

Section 5, Township 5 North, Range 26 East, of the Willamette Meridian, in Benton County, Washington, EXCEPT that portion known as Paterson Heights, AND EXCEPT State Highways, subject to Bonneville Power Administration transmission line right-of-way over the South half of the South half of said Section 5.

Assessor's Parcel No. 1-0556-100-0001-001.

PARCEL C:

That portion of Section 33, Township 6 North, Range 26 East, of the Willamette Meridian, in Benton County, Washington, described as follows:

Beginning at the Southwest corner of said Section 33; thence East along the South line of said Section 33 for 300 feet; thence North parallel with West line of said Section 33 for 490 feet; thence angle to left for 60°00'00" more or less for a distance of 350 feet more or less to intersect the West line of said Section 33 at a point 660 feet North of the Southwest corner of said Section 33; thence South along the West line of said Section 33 for 660 feet to the Southwest corner of said Section 33 and the True Point of Beginning.

Assessor's Parcel No. 1-3366-300-0000-000.

PARCEL D:

That portion of Section 32, Township 6 North, Range 26 East, of the Willamette Meridian, in Benton County, Washington, described as follows:

Beginning at the Southeast corner of said Section 32; thence North along the East line of said Section 32 for 660 feet; thence angle to the left for 60°00'00" for a distance of 1,600 feet; thence North parallel with the West line of said Section 32 for 1,260 feet; thence angle to the left for 60°00'00" for a distance of 1,390 feet; thence angle to the left for 51°00'00" for a distance of 3,030 feet more or less to the West line of said Section 32; thence South along the West line of said Section 32 for 2,410 feet more or less to the Southwest corner of said Section 32; thence East along the South line of said Section 32 for 5,280 feet, more or less to the Southeast corner of said Section 32, EXCEPT State Highway.

Assessor's Parcel No. 1-3266-300-0001-001.

PARCEL E:

That portion of the North half of Section 8, Township 5 North, Range 26 East, of the Willamette Meridian, Benton County, Washington, lying North of the Northern right-of-way line of State Highway 14 and East of the Eastern boundary line of the Plat of Paterson Heights, which Plat is recorded in the records of the Auditor of Benton County, Washington.

Assessor's Parcel Nos. 1-0856-200-0001-000 and 1-0856-100-0001-002.

PARCEL F:

That portion of Section 32, Township 6 North, Range 26 East, W.M., described as follows:

Commencing at the Southeast corner of said Section 32; thence North 2°56'12" West along the East line thereof 660.00 feet; thence North 62°56'12" West 1460.75 feet to the point of beginning; thence North 62°56'12" West 139.25 feet; thence North 1°43'22" West 1,260.00 feet; thence North 61°43'22" West 1,390.00 feet; thence North 58°44'50" East 856.99 feet; thence North 65°47'39" East 342.60 feet; thence North 84°39'46" East 331.28 feet; thence South 0°14'36" East 1,158.98 feet; thence South 20°37' West 217.79 feet; thence South 12°05'22" West 219.15 feet; thence South 0°28'36" West 281.24 feet; thence South 9°59'09" East 215.17 feet; thence South 20°51'17" East 259.69 feet to a line which bears North 0°14'36" West from the Point of Beginning; thence South 0°14'36" East 283.75 feet to the Point of Beginning.

Assessor's Parcel No. 1-3266-100-0001-002.

SAMPLE LEASE

EXHIBIT 10A Authorized Irrigation and Crop Improvements

State-owned improvements include, but are not limited to:

<u>Description</u>	<u>Location</u>
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Improvements authorized by the State:

<u>Description</u>	<u>Location</u>
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The Lessee is hereby authorized to place the following improvements on the lease premises:

<u>Description</u>	<u>Location</u>
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This authorization will expire on _____ (**date as proposed by Bidder**) if the improvements are not completed and certified by this date.

Provided, however, upon expiration or earlier termination of this lease, the State shall acquire ownership of the following authorized improvements without compensation to the Lessee:

<u>Description</u>	<u>Location</u>
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